

Conference Engrossed

State of Arizona
Senate
Forty-sixth Legislature
Second Regular Session
2004

CHAPTER 330

SENATE BILL 1050

AN ACT

AMENDING SECTIONS 16-411, 16-467, 16-542, 16-822, 16-916.01, 19-201 AND 19-212, ARIZONA REVISED STATUTES; RELATING TO ELECTIONS.

(TEXT OF BILL BEGINS ON NEXT PAGE)



1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 16-411, Arizona Revised Statutes, is amended to
3 read:

4 16-411. Designation of election precincts and polling places

5 A. ~~Except as prescribed by subsection H,~~ The board of supervisors of
6 each county shall, on or before December 1 of each year preceding the year
7 of a general election, by an order, establish a convenient number of election
8 precincts in the county and define the boundaries thereof. Such election
9 precinct boundaries shall be so established as included within election
10 districts prescribed by law for elected officers of the state and its
11 political subdivisions including community college district precincts, except
12 those elected officers provided for in titles 30 and 48.

13 B. Not less than twenty days before a general or primary election, and
14 at least ten days before a special election, the board shall designate one
15 polling place within each precinct where the election shall be held. Upon
16 a specific finding of the board, included in the order or resolution
17 designating polling places pursuant to this subsection, that no suitable
18 polling place is available within a precinct, a polling place for such
19 precinct may be designated within an adjacent precinct. Adjacent precincts
20 may be combined if boundaries so established are included in election
21 districts prescribed by law for state elected officials and political
22 subdivisions including community college districts but not including elected
23 officials prescribed by titles 30 and 48. The officer in charge of elections
24 may also split a precinct for administrative purposes. Any such polling
25 places shall be listed in separate sections of the order or resolution.

26 C. If the board fails to designate the place for holding the election,
27 or if it cannot be held at or about the place designated, the justice of the
28 peace in the precinct shall, two days before the election, by an order,
29 copies of which he shall immediately post in three public places in the
30 precinct, designate the place within the precinct for holding the election.
31 If there is no justice of the peace in the precinct, or if he THE JUSTICE OF
32 THE PEACE fails to do so, the election board of the precinct shall designate
33 and give notice of the place within the precinct of holding the
34 election. FOR ANY ELECTION IN WHICH THERE ARE NO CANDIDATES FOR ELECTED
35 OFFICE APPEARING ON THE BALLOT, THE BOARD MAY CONSOLIDATE POLLING PLACES AND
36 PRECINCT BOARDS AND MAY CONSOLIDATE THE TABULATION OF RESULTS FOR THAT
37 ELECTION IF ALL OF THE FOLLOWING APPLY:

38 1. ALL AFFECTED VOTERS ARE NOTIFIED BY MAIL OF THE CHANGE AT LEAST
39 THIRTY-THREE DAYS BEFORE THE ELECTION.

40 2. NOTICE OF THE CHANGE IN POLLING PLACES INCLUDES NOTICE OF THE NEW
41 VOTING LOCATION, NOTICE OF THE HOURS FOR VOTING ON ELECTION DAY AND NOTICE
42 OF THE TELEPHONE NUMBER TO CALL FOR VOTER ASSISTANCE.

43 3. ALL AFFECTED VOTERS RECEIVE INFORMATION ON EARLY VOTING THAT
44 INCLUDES THE APPLICATION USED TO REQUEST AN EARLY VOTING BALLOT.

1 D. The board is not required to designate a polling place for special
2 district mail ballot elections held pursuant to article 8.1 of this chapter,
3 but the board may designate one or more sites for voters to deposit marked
4 ballots until 7:00 p.m. on the day of the election.

5 E. Except as provided in subsection F, a public school shall provide
6 sufficient space for use as a polling place for any city, county or state
7 election when requested by the officer in charge of elections.

8 F. The principal of the school may deny a request to provide space for
9 use as a polling place for any city, county or state election if, within two
10 weeks after a request has been made, he provides a written statement
11 indicating a reason the election cannot be held in the school, including any
12 of the following:

13 1. Space is not available at the school.

14 ~~2. A disruption of the normal school activities would occur.~~

15 ~~3.~~ 2. The safety or welfare of the children would be jeopardized.

16 G. The board shall make available to the public as a public record a
17 list of the polling places for all precincts in which the election is to be
18 held including identification of polling place changes that were submitted
19 to the United States department of justice for approval.

20 ~~H. Notwithstanding subsection A, the board of supervisors of a county~~
21 ~~shall not change precinct lines in 1999, 2000 or 2001. The board of~~
22 ~~supervisors may subdivide an election precinct for administrative purposes~~
23 ~~or may provide for more than one polling place within the boundaries of the~~
24 ~~election precincts established for use in voting in elections held in 1999,~~
25 ~~2000 and 2001. In providing for multiple polling places within a precinct~~
26 ~~the board of supervisors shall consider the particular population~~
27 ~~characteristics of each precinct in order to provide the voters the most~~
28 ~~reasonable access to the polls possible.~~

29 H. EXCEPT IN THE CASE OF AN EMERGENCY, ANY FACILITY THAT IS USED AS
30 A POLLING PLACE ON ELECTION DAY SHALL ALLOW ELECTIONEERING AND OTHER
31 POLITICAL ACTIVITY OUTSIDE OF THE SEVENTY-FIVE FOOT LIMIT PRESCRIBED BY
32 SECTION 16-515 IN PUBLIC AREAS AND PARKING LOTS USED BY VOTERS.

33 Sec. 2. Section 16-467, Arizona Revised Statutes, is amended to read:

34 16-467. Method of voting on ballot

35 A. At primary elections there shall be provided a separate ballot for
36 each party entitled to participate in the primary.

37 B. Each party ballot shall be designated by the name of the party, and
38 for a voter who is registered as a member of a political party that is
39 entitled to continued representation on the ballot pursuant to section
40 16-804, the voter shall be given by the judge of election one ballot only
41 of the party with which the voter is affiliated as it appears in the precinct
42 register. For a voter who is registered as independent, or no party
43 preference or as a member of a political party that is not entitled to
44 continued representation on the ballot pursuant to section 16-804, the voter
45 shall designate the ballot of only one of the political parties that is

1 entitled to continued representation on the ballot and the judge of election
2 shall give the elector only that political party's ballot.

3 C. If a person is nominated on more than one ticket, the person shall
4 promptly file with the officer in charge of the preparation of election
5 ballots a written declaration indicating the party name under which the
6 person's name is to be printed on the official election ballot, and the
7 person's name shall be printed only under the party name.

8 D. FOR ANY POLITICAL PARTY THAT IS ENTITLED TO CONTINUED
9 REPRESENTATION ON THE BALLOT, SECTION 16-822 APPLIES TO THE ELECTION OF
10 PRECINCT COMMITTEEMEN.

11 Sec. 3. Section 16-542, Arizona Revised Statutes, is amended to read:

12 16-542. Request for ballot

13 A. Within ninety days next preceding the Saturday before any election
14 called pursuant to the laws of this state, an elector may make a verbal or
15 signed request to the county recorder, or other officer in charge of
16 elections for the applicable political subdivision of this state in whose
17 jurisdiction the elector is registered to vote, for an official early
18 ballot. In addition to name and address, the requesting elector shall
19 provide the date of birth and state or country of birth or other information
20 that if compared to the voter registration information on file would confirm
21 the identity of the elector. If the request indicates that the elector needs
22 a primary election ballot and a general election ballot, the county recorder
23 or other officer in charge of elections shall honor the request. For any
24 partisan primary election, if the elector is not registered as a member of
25 a political party that is entitled to continued representation on the ballot
26 pursuant to section 16-804, the elector shall designate the ballot of only
27 one of the political parties that is entitled to continued representation on
28 the ballot and the elector may receive and vote the ballot of only that one
29 political party. The county recorder may establish on-site early voting
30 locations at the recorder's office or any other locations in the county the
31 recorder deems necessary.

32 B. Notwithstanding subsection A of this section, a request for an
33 official early ballot from an absent uniformed services voter or overseas
34 voter as defined in the uniformed and overseas citizens absentee voting act
35 of 1986 (P.L. 99-410; 42 United States Code section 1973) OR A VOTER WHOSE
36 INFORMATION IS PROTECTED PURSUANT TO SECTION 16-153 that is received by the
37 county recorder or other officer in charge of elections more than ninety days
38 next preceding the Saturday before the election is valid. If requested by
39 the absent uniformed services or overseas voter, OR A VOTER WHOSE INFORMATION
40 IS PROTECTED PURSUANT TO SECTION 16-153, the county recorder or other officer
41 in charge of elections shall provide to the requesting voter early ballot
42 materials through the next two regularly scheduled general elections for
43 federal office immediately following receipt of the request.

44 C. The county recorder or other officer in charge of elections shall
45 mail postage prepaid to the address provided by the requesting elector, which

1 address shall be the elector's residence address or the location where the
2 elector is temporarily residing while absent from the precinct, the early
3 ballot and the envelope for its return within five days after receipt of the
4 official early ballots from the officer charged by law with the duty of
5 preparing ballots pursuant to section 16-545. If a statewide voter
6 registration database is not yet operational and if the requesting elector
7 registered to vote for the first time in this state after January 1, 2003 and
8 has not yet voted in this state or is reregistering after January 1, 2003
9 after moving from one county in this state to another county in this state
10 and is voting for the first time at the new registration address, the early
11 ballot materials shall include notice that the person shall submit a
12 photocopy of a current form of identification that bears a photograph of the
13 person and the name of the person or a photocopy of a current utility bill,
14 bank statement, paycheck, government issued check or other government
15 document that shows the name and registration address of the person and
16 notice that if the person does not submit photocopies of the required
17 documents, the person may only vote a provisional ballot.

18 D. Only the elector may be in possession of that elector's unvoted
19 early ballot. If a complete and correct request is made by the elector
20 within thirty days next preceding the Saturday before the election, such
21 mailing must be made within forty-eight hours after receipt of the
22 request. Saturdays, Sundays and other legal holidays are excluded from the
23 computation of the forty-eight hour period prescribed by this subsection. If
24 a complete and correct request is made by an absent uniformed services voter
25 or an overseas voter more than ninety days next preceding the Saturday before
26 the election, the mailing shall be made within twenty-four hours after the
27 early ballots are delivered pursuant to section 16-545, subsection B,
28 excluding Sundays.

29 E. In order to be complete and correct and to receive an early ballot
30 by mail, an elector's request that an early ballot be mailed to the elector's
31 residence or temporary address must include all of the information prescribed
32 by subsection A of this section and must be received by the county recorder
33 or other officer in charge of elections no later than 5:00 p.m. on the
34 eleventh day preceding the election. An elector who appears personally no
35 later than 5:00 p.m. on the Friday preceding the election at an on-site early
36 voting location that is established by the county recorder or other officer
37 in charge of elections shall be given a ballot and permitted to vote at the
38 on-site location. If an elector's request to receive an early ballot is not
39 complete and correct but complies with all other requirements of this
40 section, the county recorder or other officer in charge of elections shall
41 attempt to notify the elector of the deficiency of the request.

42 F. Unless an elector specifies that the address to which an early
43 ballot is to be sent is a temporary address, the recorder may use the
44 information from an early ballot request form to update voter registration
45 records.

1 G. The county recorder or other officer in charge of early balloting
2 shall provide an alphabetized list of all voters in the precinct who have
3 requested and have been sent an early ballot to the election board of the
4 precinct in which the voter is registered not later than the day prior to the
5 election.

6 H. As a result of an emergency occurring between 5:00 p.m. on the
7 second Friday preceding the election and 5:00 p.m. on the Monday preceding
8 the election, qualified electors may request to vote early in the manner
9 prescribed by the county recorder of their respective county. For the
10 purposes of this subsection, "emergency" means any unforeseen circumstances
11 which would prevent the elector from voting at the polls.

12 I. A candidate or political committee may distribute early ballot
13 request forms to voters. If the early ballot request forms include a printed
14 address for return to an addressee other than a political subdivision, the
15 addressee shall be the candidate or political committee that paid for the
16 printing and distribution of the request forms. All early ballot request
17 forms that are received by a candidate or political committee shall be
18 transmitted as soon as practicable to the political subdivision that will
19 conduct the election.

20 Sec. 4. Section 16-822, Arizona Revised Statutes, is amended to read:

21 16-822. Precinct committeemen; eligibility; vacancy; duties

22 A. Any member of a recognized political party who is a registered
23 voter in the precinct is eligible to seek the office of precinct committeeman
24 of his party in that precinct.

25 B. If the number of persons who file nominating petitions for an
26 election to fill precinct committeeman positions is less than or equal to the
27 number of precinct committeeman positions, the county board of supervisors
28 may cancel the election for those positions NOT SOONER THAN SEVENTY-FIVE DAYS
29 BEFORE THE ELECTION and appoint the person who filed the nominating petition
30 to fill the position. If no person has filed a nominating petition to fill
31 a position, the position is deemed vacant and shall be filled as otherwise
32 provided by law. A precinct committeeman who is appointed pursuant to this
33 subsection after filing a nominating petition shall be deemed and elected
34 precinct committeeman.

35 C. IF THE NUMBER OF PERSONS WHO FILE NOMINATING PETITIONS FOR AN
36 ELECTION TO FILL PRECINCT COMMITTEEMAN POSITIONS IS MORE THAN THE NUMBER OF
37 PRECINCT COMMITTEEMAN POSITIONS FOR A RECOGNIZED POLITICAL PARTY IN A
38 PRECINCT, A SEPARATE BALLOT SHALL BE PREPARED FOR THE ELECTION OF PRECINCT
39 COMMITTEEMEN FOR THE POLITICAL PARTY IN THAT PRECINCT. THE BALLOT SHALL
40 CONFORM AS NEARLY AS PRACTICABLE TO BALLOT REQUIREMENTS IN THIS TITLE, AND
41 TO THE OFFICIAL BALLOT PREPARED FOR THAT PARTY IN THE PRIMARY ELECTION, BUT
42 SHALL BE DESIGNATED AS THE "OFFICIAL BALLOT FOR ELECTING PRECINCT
43 COMMITTEEMEN OF THE _____ PARTY, PRIMARY ELECTION (DATE), _____
44 PRECINCT, _____ COUNTY, STATE OF ARIZONA." ONLY PERSONS WHO ARE
45 REGISTERED AS MEMBERS OF THAT POLITICAL PARTY IN THAT PRECINCT MAY VOTE THAT

1 PRECINCT COMMITTEEMAN BALLOT. THE ELECTION BOARD OR OFFICIAL SHALL PROVIDE
2 THE PARTISAN PRECINCT COMMITTEEMAN BALLOT TO VOTERS WHO ARE REGISTERED WITH
3 THAT PARTY IN ADDITION TO THE OFFICIAL BALLOT PREPARED FOR THAT PARTY IN THE
4 PRIMARY ELECTION.

5 ~~C.~~ D. In addition to other provisions of law regarding removal from
6 office, a vacancy shall exist in the office of precinct committeeman when the
7 precinct committeeman moves from the precinct from which elected or changes
8 his political party from the party in which he was elected.

9 ~~D.~~ E. The minimum duties of a precinct committeeman shall be to
10 assist his political party in voter registration and to assist the voters of
11 his political party to vote on election days. Additional duties shall be as
12 provided for in the state committee bylaws of the party of which he is a
13 member.

14 Sec. 5. Section 16-916.01, Arizona Revised Statutes, is amended to
15 read:

16 16-916.01. Electronic filing; statements of contributions and
17 expenditures

18 A. Statements, designations and reports that are filed pursuant to
19 this article in the office of the secretary of state in electronic format
20 shall be filed using computer software that is provided or approved by the
21 secretary of state. The secretary of state shall provide computer software
22 to accommodate electronic filings and shall implement and maintain a system
23 for the electronic collection, filing and dissemination of materials filed
24 pursuant to section 16-916, subsection A, paragraph 1. A COUNTY OFFICER IN
25 CHARGE OF ELECTIONS MAY IMPLEMENT AN ELECTRONIC FILING SYSTEM FOR STATEMENTS,
26 DESIGNATIONS AND REPORTS THAT ARE REQUIRED BY THIS ARTICLE TO BE FILED WITH
27 THE COUNTY OFFICER IN CHARGE OF ELECTIONS. SUBSECTIONS B THROUGH E OF THIS
28 SECTION APPLY TO AN ELECTRONIC FILING PROGRAM OPERATED BY A COUNTY.

29 B. If the filings are complete and correct, any statements,
30 designations or reports that are filed in the secretary of state's electronic
31 filing format are deemed to comply with:

32 1. The filing requirements of this chapter.

33 2. The requirement that a filing be made under oath or be submitted
34 with a written signature.

35 C. A statement, designation or report that is filed in electronic
36 format is deemed to be filed under penalty of perjury if the printed format
37 version of that document is required to be filed under penalty of perjury.

38 D. A person or political committee that submits any statement,
39 designation or report pursuant to this chapter that is not properly formatted
40 or that does not contain the information prescribed by this chapter has not
41 complied with the reporting requirements of this chapter and is subject to
42 penalties and enforcement as otherwise provided by law.

43 E. During the implementation of an electronic filing system, the
44 secretary of state AND THE COUNTY OFFICER IN CHARGE OF ELECTIONS may require

1 that statements, designations or reports be filed with an additional written
2 or printed copy.

3 Sec. 6. Section 19-201, Arizona Revised Statutes, is amended to read:
4 19-201. Officers subject to recall; number of petitioners

5 A. Every public officer holding an elective office, either by
6 election, appointment or retention, is subject to recall from such office by
7 the qualified electors of the electoral district from which candidates are
8 elected to that office. Such electoral district may include the whole
9 state. A number of qualified electors equaling twenty-five per cent of the
10 number of votes cast at the last preceding general election for all the
11 candidates for the office held by the officer, even if the officer was not
12 elected at that election, divided by the number of offices that were being
13 filled at that election may, by recall petition, demand his recall.

14 B. In the case of a public officer holding office in a newly created
15 division or district of an elective office, either by election or
16 appointment, a number of qualified electors equaling twenty-five per cent of
17 the number of votes cast at the last preceding general election for all those
18 who were candidates for other divisions or districts of the same office held
19 by the officer in that county or city divided by the number of offices that
20 were being filled at that election may, by recall petition, demand his
21 recall.

22 C. IF THE ELECTIVE OFFICER TO BE RECALLED WAS APPOINTED TO THE OFFICE
23 OR WAS DEEMED ELECTED AFTER AN ELECTION WAS CANCELED DUE TO THE ABSENCE OF
24 OPPOSING CANDIDATES AS PROVIDED IN SECTION 15-424, 48-802, 48-1012, 48-1208,
25 48-1404, 48-1908, 48-2010, 48-2107 OR 48-2208, THE RECALL PETITION MUST BE
26 SIGNED BY THE NUMBER OF QUALIFIED ELECTORS THAT IS EQUAL TO AT LEAST TEN PER
27 CENT OF THE NUMBER OF ACTIVE REGISTERED VOTERS IN THE JURISDICTION OR
28 DISTRICT REPRESENTED BY THAT ELECTIVE OFFICER AS DETERMINED ON THE DATE OF
29 THE LAST GENERAL ELECTION.

30 Sec. 7. Section 19-212, Arizona Revised Statutes, is amended to read:
31 19-212. Nomination petition; form; filing

32 A. Unless the officer otherwise requests in writing, the name of the
33 officer against whom a recall petition is filed shall be placed as a
34 candidate on the official ballot without nomination. Other candidates for
35 the office may be nominated to be voted upon at the election and shall be
36 placed upon the official recall ballot after filing a nomination petition
37 that is signed by a number of qualified electors that is equal to at least
38 two per cent of the total votes cast for all candidates for that office at
39 the last election for that office. Nomination petition signers shall be
40 qualified electors of the electoral district of the officer against whom the
41 recall petition is filed.

1 B. IF THE OFFICER AGAINST WHOM A RECALL PETITION IS FILED WAS
2 APPOINTED TO THE OFFICE OR WAS DEEMED ELECTED AFTER AN ELECTION WAS CANCELED
3 DUE TO THE ABSENCE OF OPPOSING CANDIDATES AS PROVIDED IN SECTION 15-424,
4 48-802, 48-1012, 48-1208, 48-1404, 48-1908, 48-2010, 48-2107 OR 48-2208,
5 OTHER CANDIDATES FOR THE OFFICE TO BE VOTED ON IN THE RECALL ELECTION SHALL
6 BE PLACED ON THE OFFICIAL RECALL BALLOT AFTER FILING A NOMINATION PETITION
7 THAT IS SIGNED BY THE NUMBER OF QUALIFIED ELECTORS THAT IS EQUAL TO AT LEAST
8 ONE-HALF OF ONE PER CENT OF THE NUMBER OF ACTIVE REGISTERED VOTERS IN THE
9 JURISDICTION OR DISTRICT REPRESENTED BY THAT ELECTIVE OFFICER AS DETERMINED
10 ON THE DATE OF THE LAST GENERAL ELECTION WITH NO LESS THAN FIVE SIGNATURES.
11 NOMINATION PETITION SIGNERS SHALL BE QUALIFIED ELECTORS OF THE ELECTORAL
12 DISTRICT OF THE OFFICER AGAINST WHOM THE RECALL PETITION IS FILED.

13 B. C. The title and body of the nomination petition shall be
14 substantially in the following form:

15 Nomination Petition--Recall Election

16 We, the undersigned electors, qualified to vote in the
17 recall election mentioned herein, residents of the precinct
18 indicated by the residence addresses given, and residents of the
19 county of _____, state of Arizona, hereby nominate _____, who
20 resides at _____, in the county of _____ to be a candidate in
21 the recall election for the office of _____ to be held on
22 _____, and we further declare that

23 (date)

24 we have not signed and will not sign any nomination paper for
25 any other person for such office.

26 The remainder of the petition shall be substantially in the form
27 prescribed in section 16-315.

28 C. D. If recall petitions have been filed against more than one
29 member of a multimember public body whose members serve at large, the
30 nomination petition and paper of the other candidates shall state which
31 member they oppose.

32 D. E. To each nomination petition shall be appended a certificate by
33 a person who is qualified to register to vote pursuant to section 16-101
34 stating that to the best of his knowledge and belief all the signers of the
35 nomination petition are qualified electors of the precinct which they give
36 as their residence.

37 E. F. Such nomination petition shall be filed not more than ninety
38 days nor less than sixty days prior to the date of the recall election.

APPROVED BY THE GOVERNOR JUNE 3, 2004.

FILED IN THE OFFICE OF THE SECRETARY OF STATE JUNE 3, 2004.

HOUSE FINAL PASSAGE
as per Joint Conference

Passed the House May 26, 2004,

by the following vote: 54 Ayes,

2 Nays, 4 Not Voting

John Elisk
Speaker of the House

Norman L. Moore
Chief Clerk of the House

SENATE FINAL PASSAGE
as per Joint Conference

Passed the Senate May 26, 2004,

by the following vote: 29 Ayes,

0 Nays, 1 Not Voting

Ken Blumett
President of the Senate

Charmine Bellinger
Secretary of the Senate

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF GOVERNOR

This Bill was received by the Governor

this 27th day of May, 2004.

at 8:40 o'clock a. M.

Wendy F. Harris
Secretary to the Governor

Approved this 3 day of

June, 2004,

at 3:45 o'clock P. M.

Jon R. R. [Signature]
Governor of Arizona

S.B. 1050

EXECUTIVE DEPARTMENT OF ARIZONA
OFFICE OF SECRETARY OF STATE

This Bill was received by the Secretary of State

this 3 day of June, 2004,

at 4:22 o'clock P. M.

Janice K. Brewer
Secretary of State